

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No.10773 of 2015 (V)

PETITIONERS:

1. **K.M.MOHAMMED NAZIR,MANAGING PARTNER,
NATIONAL GRANITES AND HOLLOW BRICKS,PERATTA,
P.O.KOOTHUPUZZHA,KANNUR DISTRICT.**
2. **M.D.KURIAKOSE,MANAGING PARTNER,COCHIN GRANITES,
WEST VENGOLA P.O,PERUMBAVOOR,ERNAKULAM DISTRICT.**
3. **M.M.AZAD,MANAGING PARTNER,
MALABAR BRICKS AND METALS,POOVATHICKAL,
AREEKODE,MALAPPURAM DISTRICT.**
4. **M.M.AJAZ,MANAGING PARTNER,POONOORPOIYIL GRANITES,
MARANCHATTY,KOODARANHI P.O,KOZHIKODE DISTRICT.**
5. **V.ABDUL RAHAMAN,MANAGING PARTNER,
BISMI GRANITE INDUSTRIES,EDAVANNA,
MALAPPURAM DISTRICT.**

BY ADV.DR.GEORGE ABRAHAM

RESPONDENTS:

1. **STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,THIRUVANANTHAPURAM - 695 001.**
2. **DIRECTOR OF MINING AND GEOLOGY,KESAVADASAPURAM,
PATTAM P.O,THIRUVANANTHAPURAM - 695 004.**
3. **GEOLOGIST,DISTRICT OFFICE,
MINING AND GEOLOGY DEPARTMENT,
KANNUR,KANNUR DISTRICT - 671 001.**
4. **GEOLOGIST,DISTRICT OFFICE,
MINING AND GEOLOGY DEPARTMENT,
KAKKANAD,ERNAKULAM DISTRICT - 682 030.**
5. **GEOLOGIST,DISTRICT OFFICE,
MINING AND GEOLOGY DEPARTMENT,
MINI CIVIL STATION,MANJERI,
MALAPPURAM DISTRICT - 676 121.**

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6. **GEOLOGIST,DISTRICT OFFICE,
MINING AND GEOLOGY DEPARTMENT,
CIVIL STATION,KOZHIKODE,
KOZHIKODE DISTRICT - 673 001.**
7. **GEOLOGIST,DISTRICT OFFICE,
MINING AND GEOLOGY DEPARTMENT,
MALAPPURAM,MALAPPURAM DISTRICT - 676 305.**

R1 TO R7 BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF FORM-S DATED 29.03.2014 ISSUED TO THE 1ST
PETITIONER.**

**EXT.P2:TRUE COPY OF THE QUARRYING LICENCE DATED 14.05.2010 ISSUED TO
THE 2ND PETITIONER.**

**EXT.P3:TRUE COPY OF THE FORM-S DATED 01.11.2014 ISSUED TO THE 3RD
PETITIONER.**

**EXT.P4:TRUE COPY OF FORM-S DATED 29.03.2014 ISSUED TO THE 4TH
PETITIONER.**

**EXT.P5:TRUE COPY OF FORM-S DATED 29.03.2014 ISSUED TO THE 5TH
PETITIONER.**

**EXT.P6:TRUE COPY OF GOP NO.1/2008/ID DATED 01.01.2008 ISSUED BY THE 1ST
RESPONDENT.**

**EXT.P7:TRUE COPY OF THE AMENDMENT BROUGHT ABOUT BY THE 1ST
RESPONDENT AS PER GOP NO.1/ID DATED 05.01.2015.**

**EXT.P8:TRUE COPY OF THE ORDER DATED 09.03.2015 ISSUED TO THE 1ST
PETITIONER BY THE DISTRICT GEOLOGIST DEMANDING THE BALANCE
AMOUNT OF ROYALTY.**

**EXT.P9:TRUE COPY OF THE ORDER DATED 21.02.2015 ISSUED TO THE 2ND
PETITIONER BY THE DISTRICT GEOLOGIST DEMANDING THE BALANCE
AMOUNT OF ROYALTY.**

**EXT.P10:TRUE COPY OF THE ORDER DATED 04.03.2015 ISSUED TO THE 3RD
PETITIONER BY THE DISTRICT GEOLOGIST DEMANDING THE BALANCE
AMOUNT OF ROYALTY.**

**EXT.P11:TRUE COPY OF THE ORDER DATED 19.03.2015 ISSUED TO THE 4TH
PETITIONER BY THE DISTRICT GEOLOGIST DEMANDING THE BALANCE
AMOUNT OF ROYALTY.**

**EXT.P12:TRUE COPY OF THE ORDER DATED 04.03.2015 ISSUED TO THE 5TH
PETITIONER BY THE DISTRICT GEOLOGIST DEMANDING THE BALANCE
AMOUNT OF ROYALTY.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.R. RAMACHANDRA MENON, J.

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Dated this the 1st day of April, 2015

JUDGMENT

The petitioners are mainly aggrieved of the enhancement of the 'consolidated royalty' from 5.01.2015 by virtue of the amendment of the KMMC Rules, 2015 brought into force as per Ext.P7 (G.O.(P) NO.1/2015/IB). The 'consolidated royalty' has been enhanced in the case of the petitioners to an unconscionable extent. The petitioners have been served with Exts.P8 to P12 notices to satisfy the amount as specified therein, which made the petitioner to approach this Court by filing this writ petition.

2. Heard the learned Government Pleader as well.

3. During the course of hearing, the learned counsel for the petitioners submits that, Ext.P7 amendment does not have any retrospective effect and the same will come into effect only after the date of notification and as such, the liability of the petitioners can only be from 5.1.2015 to 31.3.2015.

4. After hearing both the sides, the writ petition is disposed

of directing respondents 3 to 7 to consider objection, if any, and pass appropriate orders after affording an opportunity of hearing to the petitioners at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment. Coercive proceedings, if any shall be kept in abeyance till such time, subject to satisfaction of 1/4th of the amount payable as per the amendment in the case of each petitioners in respect of 2014-2015, to be effected within 'ten days' from the date of receipt of a copy of this judgment. Application for renewal of registration for the year 2015-2016 shall be considered on payment of 25% of the enhanced consolidated royalty.

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-